

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR 19 2010

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2009-0263
	)	DEPARTMENT B
Appellee,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
BENNIE CRUZ MARTINEZ,	)	the Supreme Court
	)	
Appellant.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20084236

Honorable John Leonardo, Judge

AFFIRMED

Robert J. Hirsh, Pima County Public Defender  
By David J. Euchner

Tucson  
Attorneys for Appellant

V Á S Q U E Z, Judge.

¶1 After he failed to appear for his jury trial, appellant Bennie Martinez was tried in absentia on charges of possessing a dangerous drug and drug paraphernalia. The jury found him guilty of both counts, and after finding he had two historical prior felony

convictions, the trial court sentenced him to concurrent, substantially mitigated terms of imprisonment, the longer of which was six years.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), avowing he has reviewed the entire record and found no arguable issue to raise on appeal. In compliance with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), counsel also has provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel’s recitation of the facts. Martinez has not filed a supplemental brief.

¶3 Viewed in the light most favorable to upholding the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that Martinez admitted possessing a package containing what was determined to be .17 grams of methamphetamine after he was stopped by a Pima County Sheriff’s deputy for a traffic violation, arrested for driving on a suspended license, and advised of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966).

¶4 We conclude substantial evidence supported the jury’s findings of all the elements necessary for Martinez’s convictions and the trial court’s findings of historical prior felony convictions, *see* A.R.S. §§ 13-3407(A)(1), (B)(1); 13-3415(A); former A.R.S. § 13-604(W)(3), 2008 Ariz. Sess. Laws, ch. 24, § 1, and his sentences are within the authorized range, *see* former A.R.S. §§ 13-604(C), 2008 Ariz. Sess. Laws, ch. 24, § 1;

13-702.01(F), 2006 Ariz. Sess. Laws, ch. 148, § 2.<sup>1</sup> In our examination of the record pursuant to *Anders*, we have found no reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, we affirm Martinez’s convictions and sentences.

/s/ Garye L. Vásquez  
GARYE L. VÁSQUEZ, Judge

CONCURRING:

/s/ Peter J. Eckerstrom  
PETER J. ECKERSTROM, Presiding Judge

/s/ J. William Brammer, Jr.  
J. WILLIAM BRAMMER, JR., Judge

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<sup>1</sup>The Arizona criminal sentencing code has been renumbered, effective “from and after December 31, 2008.” *See* 2008 Ariz. Sess. Laws, ch. 301, §§ 1-120. We refer in this decision to the section numbers in effect when Martinez committed the offenses in this case.